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10/588,841	08/08/2006	Detlef Lauk	022862-1090-00	1054
23409 7590 06/11/2010 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
LUONG, VINH				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/588,841

**Applicant(s)**

LAUK ET AL.

**Examiner**

Vinh T. Luong

**Art Unit**

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 7-9, 11 and 17-19 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6, 10 and 12-16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 08 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ ~~Notice of Informal Patent Application~~  
6) ☒ Other: Appendix

1. Applicant's election of the species of FIGS. 1a-2l in the reply filed on March 29, 2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse. MPEP § 818.03(a).
2. Claims 7-9, 11, and 17-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 29, 2010.
3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of the implied phrase "The invention starts . . ." Correction is required. See MPEP § 608.01(b).
5. The drawings are objected to because of the reasons, *inter alia*, listed below:
  - (a) The drawings are not in compliance with 37 CFR 1.84. See Form PTO 948 attached;
  - (b) Figure 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated (Spec. ¶ 26). See MPEP § 608.02(g); and
  - (c) 37 CFR 1.84(h)(3) states:

A cross section *must* be set out and drawn to show all of the materials as they are shown in the view from which the cross section was taken. The parts in cross section *must* show proper

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material(s) by hatching with regularly spaced parallel oblique strokes, the space between strokes being chosen on the basis of the total area to be hatched. The various parts of a cross section of the same item should be hatched in the same manner and should accurately and graphically indicate the nature of the material(s) that is illustrated in cross section. The hatching of juxtaposed different elements *must* be angled in a different way. In the case of large areas, hatching may be confined to an edging drawn around the entire inside of the outline of the area to be hatched. Different types of hatching should have different conventional meanings as regards the nature of a material seen in cross section. (Emphasis added)

However, the cross sections, such as, FIGS. 1a, 1b, and 3-5b do not show the materials by hatching.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-6, 10, and 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, the term “Crankshaft arrangement” in claim 1 should have been changed to “A crankshaft arrangement” and “Structural part” in claim 10 should have been changed to “A structural part.”

Claim 3/1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential element, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted element is the first fore part. As noted, claim 3/1 requires “second fore part,” however, the first fore part is not claimed. Thus, the omission of the first fore part amount to the gap between the elements in claim 3/1.

Claim 4/3/1 recites the limitation “the *first* and second fore parts” (emphasis added). There is insufficient antecedent basis for the limitation “the first fore part” in the claim.

Claim 12/10 recites the limitation “the fore *parts*” (plural, emphasis added). There is insufficient antecedent basis for this limitation in the claim.

It is unclear whether the term that appears at least twice, such as, “a sleeve” in claim 12/10 refers to the same or different things. See double inclusion in MPEP 2173.05(o). If they

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are different, Applicant is respectfully suggested to change “a sleeve” in claim 10 to “a first sleeve” and “a sleeve” in claim 12 to “a second sleeve.”

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 1, 3, 5, and 6, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by admitted prior art shown in Applicant’s FIG. 3 (Spec. ¶ 26).

Claim 1

Admitted prior art (hereinafter “APP”) teaches a crankshaft arrangement, for a wind-shield wiper system, in which a shaft 10 is connected to a crank 12 so as to drive the shaft 12 characterized in that the crank 12 is connected to the shaft 10 via a structural part 52, 58.

Claim 3

The structural part 52, 58 features, on its second fore part 54, a crosspiece 56 for support on a counter bearing 46.

Claim 5

The structural part 52, 58 is connected to the shaft 10 at least in a rotationally secured manner.

Claim 6

The structural part 52, 58 has a cylindrical outer wall 52 (FIG. 3).

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, 5, and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Merkel et al. (WO 01/21460 published on March 29, 2001 and cited in the International Search Report).

As noted, WO 01/21460 corresponds to US 6,802,102. In the rejection below, the Examiner uses US 6,802,102 as an English translation of WO 01/21460.

Claim 1

Merkel teaches a crankshaft arrangement, for a wind-shield wiper system, in which a shaft 10 is connected to a crank 12 so as to drive the shaft 12 characterized in that the crank 12 is connected to the shaft 10 via a structural part 44.

Claim 2

The structural part 44 projects with its first fore part (see Appendix hereinafter “App.”) into a bore hole (App.) of the crank 12.

Claim 5

The structural part 44 is connected to the shaft 10 at least in a rotationally secured manner.

Claim 6

The structural part 44 has a cylindrical outer wall (at the bore hole in App.).

12. Claims 10 and 12, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Hawighorst (WO 03/039922 published on May 15, 2003).

As noted, WO 03/039922 corresponds to US 2004/0163483. In the rejection below, the Examiner uses US 2004/0163483 as an English translation of WO 03/039922.

Claim 10

Hawighorst teaches a structural part for a crankshaft arrangement for connecting a crank 24 to a shaft 22, characterized in that a sleeve 40 features a crosspiece 44 on one fore part (at 44 in FIG. 4).

Claim 12

The crosspiece 44 forms a base of a sleeve 46 extending away from the fore parts (at 42 and 44 in FIG. 4) in the axial direction.

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 3, 4, and 13-16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkel in view of Hawighorst.

Claims 3 and 13

Merkel teaches the invention substantially as claimed. However, Merkel does not teach the crosspiece on its second fore part for support a counter bearing.



Hawighorst teaches the crosspiece 44 for support the counter bearing 26.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the crosspiece on Merkel's second fore part for support the counter bearing as taught or suggested by Hawighorst. The modification of Merkel's crankshaft arrangement by forming the cross piece as taught by Hawighorst would not have been uniquely challenging to a person of ordinary skill in the art because it is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement." *KSR Int'l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) and it "does no more than yield predictable results." *KSR* at 1739.

Claims 4 and 14

Hawighorst's crosspiece 44 forms a base of a sleeve 46 extending away from the first fore part 42 and the second fore part (at 44 in FIG. 3) in the axial direction.

Claim 15

Merkel's structural part 44 is connected to the shaft 10 at least in a rotationally secured manner.

Claim 16

Merkel's structural part 44 has a cylindrical outer wall (at the bore hole in App.).

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Berge et al. (FIG. 7) and Zimmer (FIG. 9).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vinh T Luong/  
Primary Examiner, Art Unit 3656